

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MICHAEL G. CROMEY, JR.,
#02126938,

Plaintiff,

V.

MATT BINGHAM, et al.,

Defendants.

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Case No. 6:22-cv-210-JDK-JDL

## ORDER ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Michael G. Cromey, Jr., a Bradshaw State Jail inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636.


On October 14, 2022, Judge Love issued a Report and Recommendation recommending that the Court dismiss this case with prejudice until the *Heck* conditions are met. Docket No. 15. Plaintiff timely objected. Docket No. 17.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Plaintiff's objections bolster Judge Love's recommendation. Plaintiff complains of his conviction for aggravated assault with a deadly weapon—arguing that perjury was committed and false evidence was presented. As previously explained, however, a plaintiff seeking damages under § 1983 for actions whose unlawfulness would render a conviction or sentence invalid must prove that the conviction or sentence has been reversed, expunged, invalidated, or otherwise called into question. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Plaintiff has not done so. Indeed, Plaintiff's claims, if proven, would call into question the validity of his conviction and sentence. *See Hudson v. Hughes*, 98 F.3d 868, 871 (5th Cir. 1996).

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 15) as the opinion of the District Court. Plaintiff's claims are **DISMISSED** with prejudice until the *Heck* conditions are met.

So **ORDERED** and **SIGNED** this **2nd** day of **November, 2022**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE